

REMARKS

Claims 1-55 are pending. Claims 1, 14, 23, 33, 47 and 53 have been amended to correct typographical errors, but not to overcome the prior art. No new matter is presented.

Claim 33 was objected to for a minor informality in dependency. The claim has been amended to correct the dependency, and withdrawal of the objection is respectfully requested.

Claims 1-22, 25-34, 36-45, 47-55 are rejected under 35 USC 103(a) as being unpatentable over Ohara, U.S. Patent 6,438,643 and in view of DeGraaf, U.S. Patent 5,740,405. This rejection is respectfully traversed.

The Examiner admits that Ohara fails to teach or suggest “a deciding controller for determining adaptability between an old version of the first software program that has already been installed and a new version of the second software program, or for determining adaptability between an old version of the second software program that has already been installed and a new version of the first software program, where the first software program is of a type different than the second software program.” The Examiner asserts that DeGraaf teaches this feature and that it would have been obvious to modify Ohara’s system because “installing the latest/newest compatible driver will improve operating efficiency of the printer” and because it would reduce the cost of manufacturing/operating (citing to Ohara, col. 24, lines 8-35).

Ohara teaches a communication system adapted such that firmware used for computers 10, 30 and 40 can be managed by the manager G through a keyboard 53 and other input devices such as a mouse (col. 13, lines 45-50). As is well known to one of ordinary skill in the art, firmware consists of computer programming instructions that are stored in a read-only memory unit (ROM) rather than being implemented through software. Ohara discloses a method of programming the ROMs of the printers (col. 14, lines 20-24). Ohara teaches that the originally or currently stored processing programs (firmwares) can be replaced with new processing programs (col. 15, lines 52-59). Ohara does not teach, however, a data processor having a first software program which is installed therein, and a printer having a second software program which is installed therein. In fact,

the entire purpose of Ohara is to implement the programming of these devices via firmware which is programmed into a ROM. Ohara does not use software programs, and to modify Ohara to implement software programs rather than firmware programs would be contrary to the purpose of Ohara. Ohara merely discloses upgrading the firmware of the devices in the communication system, but that is the only similarity to the claimed invention. Furthermore, the Examiner asserts that the software upgrades are based on the determination result by the determining controller (pg. 3 of the Office Action), but Ohara does not disclose any determining controller nor does it disclose that upgrades are based on any determination result. The only thing Ohara determines is whether the firmware upgrade button has been pushed (col. 17, lines 56-59), but this is not the same as what is being claimed. Thus, Ohara fails to teach or suggest that which the Examiner asserts.

Further, even if Ohara taught what the Examiner asserts, there would have been no motivation to modify Ohara in view of the teachings of DeGraaf.

The Examiner asserts that it would have been obvious to modify Ohara's system because "installing the latest/newest compatible driver will improve operating efficiency of the printer" and because it would reduce the cost of manufacturing/operating (citing to Ohara, col. 24, lines 8-35). However, Ohara provides for upgrading the firmware of the printer, so DeGraaf would add no benefit to Ohara that Ohara does not already realize. Furthermore, Ohara relates to firmware programmed into a programmable ROM and DeGraaf relates to software capability. One of ordinary skill in the art would not have been motivated to look to the teachings of DeGraaf to modify Ohara due to this difference. Thus, claim 1 is allowable.

Claims 14, 25, 31, 36, 42, 50 and 53 are allowable for the same reasons claim 1 is allowable. The remaining claims are allowable at least due to their respective dependencies. Applicant requests that this rejection be withdrawn.

Claims 23-24, 35, and 46 were rejected under 35 USC 103(a) as being unpatentable over Ohara and DeGraaf as described in claims 1-22, 25-34, 36-45 above, and in view of Benjamin, U.S. Patent 6,113,208. This rejection is respectfully traversed.

These claims are allowable at least for the reasons set forth above, and further in view of Benjamin's failure to overcome the deficiencies of Ohara and DeGraaf. Applicant requests that this rejection be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 325772018400.

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